



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,935	01/13/2004	Joseph Eugene Holland	2A0401.DVI	3271

7590  
IMI Cornelius Inc.  
One Cornelius Place  
Anoka, MN 55303-6234

08/16/2006

EXAMINER

TAPOLCAI, WILLIAM E

ART UNIT PAPER NUMBER

3744

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/756,935

**Applicant(s)**

HOLLAND ET AL.

**Examiner**

William E. Tapolcai

**Art Unit**

3744

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 10-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☒ Certified copies of the priority documents have been received in Application No. 09/962,563.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20050322.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Grumbly. Grumbly discloses a freezing machine having a dispense tap and a dosing machine 40, 42, 48, 50 for dosing flavorings as the frozen product is being dispensed from the tap.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grumbly in view of Fiedler. Grumbly discloses the claimed invention except for the recirculation loop. Fiedler teaches a freezing machine which includes a recirculation loop 56, 76, 78 connected to the dispense tap 64. It would be obvious to provide Grumbly with a recirculation loop at the dispense tap, in view of Fiedler, for the purpose of returning undispensed product to the freezer without wasting it.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (571) 272-4814. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
William E. Tapolcai  
Primary Examiner  
Art Unit 3744

wet  
August 1, 2006

<b>Notice of References Cited</b>	Application/Control No. 10/756,935	Applicant(s)/Patent Under Reexamination HOLLAND ET AL.	
	Examiner William E. Tapolcai	Art Unit 3744	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2,667,846	02-1954	GRUMBLY GERALD P	137/637.1
*	B	US-5,016,446	05-1991	Fiedler, Armin	62/342
*	C	US-3,934,427	01-1976	Keyes, Richard M.	62/342
*	D	US-2,934,243	04-1960	METZGER JOHN A	222/145.7
*	E	US-4,625,525	12-1986	Bradbury et al.	62/330
*	F	US-4,974,965	12-1990	Heinhold et al.	366/289
*	G	US-3,803,870	04-1974	Conz, Loris	62/342
*	H	US-6,625,993	09-2003	Frank et al.	62/68
*	I	US-5,692,392	12-1997	Swier, Raymond R.	62/342
	J	US-			
	K	US-			
	L	US-			
	M	US-			

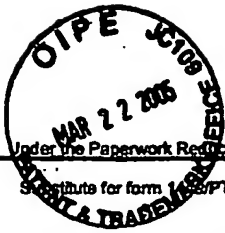
**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



PTO/SB/08A (04-03)

Approved for use through 04/30/2003. OMB 0651-0031  
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1001 PTO  
PATENT & TRADEMARK**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

**Complete if Known**

Application Number	10/756,935
Filing Date	January 13, 2004
First Named Inventor	Joseph Eugene Holland
Art Unit	3754
Examiner Name	
Attorney Docket Number	TMU-4003B

Sheet  of **U. S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number and Code <sup>2</sup> (if known)			
WES	A	US- 3,995,770	12/7/76	Schwitters	Col. 6, line 1-7
WES	B	US- 4,560,089	12/24/85	McMillin et al	Col. 7, line 38-44
WES	C	US- 4,730,463	3/15/88	Stanfill	Col. 4, line 2-5 Col. 2, line 42-54
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			
	N	US-			
	O	US-			
	P	US-			
	Q	US-			
	R	US-			
	S	US-			

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>3</sup>
		Country Code <sup>4</sup> Number <sup>5</sup> Kind Code <sup>6</sup> (if known)				
WES	T	WO 97/28082	7/8/97	Leeming	Pg 13-14, 7-Pg 13-14	
WES	U	EP 0 244 031	11/4/87	Ummels	Col. 4, line 24- Col. 5-11, line 9	
WES	V	UK 2 247 848	3/18/92	Whitlence	Pg 3: line 18-20	
WES	W	UK 2 230 252	10/17/90	Objex Ltd.	Pg 1: line 20-33 Pg. 12, line 8-33	

Examiner Signature	WES apollo	Date Considered	3/13/07
--------------------	------------	-----------------	---------

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 808. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 801.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 18 if possible. <sup>6</sup> Applicant is to place a check mark here if English language translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Organization **TC3700 RANDOLPH**  
Bldg/Room

United States Patent and Trademark Office

P.O. Box 1450

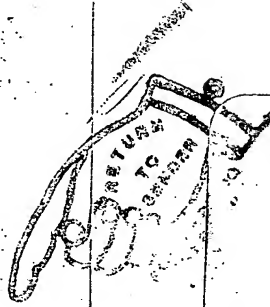
Alexandria, VA 22313-1450

If Undeliverable Return in Ten Days

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE, \$300

AN EQUAL OPPORTUNITY EMPLOYER



CORN001 553032031 IN 12 03/20/07  
IMI-001 553032031 IN 12 03/20/07  
UNABLE TO FORWARD

NO FORWARD ORDER ON FILE  
RETURN TO POSTMASTER  
OF ADDRESSEE FOR REVIEW

